



March 31, 2009

WSFS Bank Center  
500 Delaware Avenue  
Wilmington, Delaware 19801  
302-792-6000  
www.wsfsbank.com

Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20th Street & Constitution Avenue, NW  
Washington, DC 20551

Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington DC 20552  
Attn: OTS-2008-0004

**RE: Regulation E, Docket No. R-1343**

Dear Ms. Johnson:

We are submitting our comments in response to the notice of proposed rulemaking ("Proposed Rule"), as requested by the Federal Reserve Board (Board) published in the Federal Register on January 29, 2009. The Proposed Rule would amend Regulation E, which implements the Electronic Fund Transfer Act, and seeks to provide consumers certain protections relating to the assessment of overdraft fees related to ATM withdrawals and one-time debit card transactions.

At WSFS Bank, we have been helping our communities and customers with their financial needs for over 177 years. Creating positive customer experiences and providing customers with stellar service levels they have come to know and expect remains a very high priority. Our team is empowered to be proactive and responsive decision-makers. They have the attitude and talent necessary to foster meaningful relationships with customers that in turn create advocates for WSFS Bank.

WSFS acts with our customers' best interest in mind and our overdraft practices mirror this guiding principle. We understand that checking accounts are the backbone of the banking relationship and we very much value that relationship. We also understand that mistakes happen. Our practice is to pay the overdraft items, at our discretion, and charge a fee in anticipation that the customer will cover the shortfall. Customers value this practice, recognized by the unsolicited customer "thank you's" we receive and the relatively small percentage of customers that choose to opt out of this service (approximately 6%).

The Board has proposed two options for customers to take benefit of the overdraft service – opt-out alternative or opt-in. Of the two alternatives, the opt-out alternative is more beneficial to our customers. At WSFS, we provide the option to opt-out every time an incident occurs via the overdraft notice. Included in the notice, we also offer alternative solutions to avoid overdraft charges, such as a line of credit or a linkage with a savings account transfer. Understanding that our customers may make an occasional mistake and not know their available balance before using their debit card or ATM, our Associates are empowered to refund overdraft fees for first-time occurrences or in extenuating circumstances.

The opt-in alternative requires customers to affirmatively consent to the overdraft service for ATM and one-time debit card transactions. While this alternative might appear to offer the most protection to customers, in reality, it does not. Customers generally do not anticipate incurring overdraft fees and for this reason, they are reluctant to formally sign-up, or opt-in, to the overdraft service. As a result, these customers will not have this service available at critical times.

Providing the opt-out option at account opening is appropriate, as well as the on-going notification and ability to opt-out through each overdraft notice, especially since the overdraft notice gets more attention than the periodic statement. Following our current practice, we believe the opt-out option should be offered with every overdraft notice. Customers should be made aware that the option to opt-out is also available on other types of transactions. Additionally, a notice should be provided to customers whenever overdraft situations occur, not just ones caused by ATM and one-time debit transactions. Providing notice only when an overdraft fee was assessed due to ATM or one-time debit card transactions will be very costly and timely for community banks to implement.

WSFS supports the “Reasonable Belief Exception” identified by the Board. However, the small dollar or amount below floor that the merchant is not required to submit for authorization is a great concern for us. The reason behind this exception is that the customers are not aware of what the merchant is doing, in this case, not submitting the transaction for authorization. Unfortunately, the situation is similar to banks. We are not aware of the transaction since there was no authorization and therefore, we do not have the opportunity to decline the transaction for insufficient funds.

The customers are actually in a better position to avoid overdraft charges when they know what transactions have cleared their account or are still outstanding. We as the financial institution have no way of knowing which transactions are still pending if there was no authorization. Before finalizing this proposal, we ask that the Board revisit the merchant rule concerning floor limits for this type of transaction. Otherwise, if made formal, this small dollar rule could create additional risk and burden to financial institutions.

Of great concern to us, the proposal absolves customers from knowing their account balances. Financial institutions arm customers with a variety of methods to keep track of

their balances. Besides the tried and true check register, various platforms (ATM, online banking, telephone access and branches) also give the customer the ability to determine their account balance at any time of the day. Its adoption could potentially threaten all banking fees and payment obligations dependent on responsible customer behavior.

The debit hold proposed rule is fair. One request we have is for the Board to also implement a 2-hour limit for the merchants to release the debit hold.

We are requesting that the Federal Reserve consider the concerns we have mentioned above. We strongly feel that if financial institutions abide by the current best practices, the opt-out alternative will provide the best service to customers.

Sincerely,

A handwritten signature in black ink, reading "Mark A. Turner". The signature is fluid and cursive, with the first name "Mark" and last name "Turner" clearly legible.

Mark A. Turner  
President & CEO

cc: Senator Thomas R. Carper  
Senator Edward E. Kaufman  
Congressman Mike Castle  
Richard Wright